

JUDGE RAKOFF

12 CV 7644

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

George Rivera,

Plaintiff,

v.

Chase Receivables, Inc.; and  
DOES 1-10, inclusive,

Defendants.

Civil Action No.: \_\_\_\_\_

**COMPLAINT**



For this Complaint, the Plaintiff, George Rivera, by undersigned counsel, states as follows:

**JURISDICTION**

1. This action arises out of the Defendants' repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of the Plaintiff's personal privacy by the Defendants and their agents in their illegal efforts to collect a consumer debt.

2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendants transact business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

**PARTIES**

4. The Plaintiff, George Rivera ("Plaintiff"), is an adult individual residing in New York, New York, and is a "consumer" as the term is defined by 15 U.S.C. § 1692a(3).

5. The Defendant, Chase Receivables, Inc. ("Chase Receivables"), is a California

business entity with an address of 951 California Boulevard, Napa, California 94559, operating as a collection agency, and is a “debt collector” as the term is defined by 15 U.S.C. § 1692a(6).

6. Does 1-10 (the “Collectors”) are individual collectors employed by Chase Receivables and whose identities are currently unknown to the Plaintiff. One or more of the Collectors may be joined as parties once their identities are disclosed through discovery.

7. Chase Receivables at all times acted by and through one or more of the Collectors.

### **ALLEGATIONS APPLICABLE TO ALL COUNTS**

#### **A. The Debt**

8. The Plaintiff allegedly incurred a financial obligation in the approximate amount of \$500.00 (the “Debt”) to an original creditor (the “Creditor”).

9. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

10. The Debt was purchased, assigned or transferred to Chase Receivables for collection, or Chase Receivables was employed by the Creditor to collect the Debt.

11. The Defendants attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

#### **B. Chase Receivables Engages in Harassment and Abusive Tactics**

12. In August 2012, Defendants began placing daily calls to Plaintiff at his landline (xxx-xxx-3047) in an attempt to collect the Debt.

13. On numerous occasions, Plaintiff informed defendants that he was unemployed

and had no means to pay the Debt.

14. Nevertheless, Defendants continued to place daily calls to Plaintiff and demanded that he pay same.

15. Plaintiff was greatly frustrated by Defendants' calls and at one point yelled at Defendants: "Stop calling and just sue me already, but stop harassing me by phone!"

16. However, Defendants continued to call Plaintiff and asked Plaintiff personal question, such as, who Plaintiff lived with, how much his mother earned, what kind of work she did, how much money she had in her retirement plan and if she could pay the Debt.

17. When Plaintiff stated that he would not tolerate this kind of harassment and asked to speak to a supervisor, Defendants' collector retorted: "What, is he going to pay the bill for you?!"

**C. Plaintiff Suffered Actual Damages**

18. The Plaintiff has suffered and continues to suffer actual damages as a result of the Defendants' unlawful conduct.

19. As a direct consequence of the Defendants' acts, practices and conduct, the Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

**COUNT I**  
**VIOLATIONS OF THE FDCPA - 15 U.S.C. § 1692, et seq.**

20. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

21. The Defendants' conduct violated 15 U.S.C. § 1692d in that Defendants engaged in behavior the natural consequence of which was to harass, oppress, or abuse the Plaintiff in

connection with the collection of a debt.

22. The Defendants' conduct violated 15 U.S.C. § 1692d(5) in that Defendants caused a phone to ring repeatedly and engaged the Plaintiff in telephone conversations, with the intent to annoy and harass.

23. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

24. The Plaintiff is entitled to damages as a result of Defendants' violations.

#### **PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff respectfully prays that judgment be awarded in the Plaintiff's favor and against the Defendants as follows:

1. Against the named the Defendants, jointly and severally, awarding the Plaintiff actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
2. Against each of the named the Defendants, awarding the Plaintiff statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A);
3. Against the named the Defendants, jointly and severally, awarding the Plaintiff recovery of the costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3);
4. Against the named the Defendants, jointly and severally, awarding the Plaintiff punitive damages in such amount as is found appropriate; and
5. Granting the Plaintiff such other and further relief as may be just and proper.

**TRIAL BY JURY DEMANDED ON ALL COUNTS**

Dated: October 5, 2012

Respectfully submitted,

By 

Sergei Lemberg (SL 6331)  
LEMBERG & ASSOCIATES L.L.C.  
1100 Summer Street, 3<sup>rd</sup> Floor  
Stamford, CT 06905  
Telephone: (203) 653-2250  
Facsimile: (203) 653-3424  
Attorneys for Plaintiff

JS 44C/SDNY  
REV. 1/2008

## CIVIL COVER SHEET

The JS 44C/SDNY cover sheet is not the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

CCT 12 2012

## PLAINTIFFS

George Rivera

## DEFENDANTS

Chase Receivables, Inc.

## ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Lemberg & Associates, LLC  
1100 Summer Street, Third Floor  
Stamford, CT 06905

## ATTORNEYS (IF KNOWN)

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)  
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

15 USC 1692 - Violations of the Fair Debt Collection Practices Act

Has this or a similar case been previously filed in SDNY at any time? No? ☒ Yes? ☐ Judge Previously Assigned \_\_\_\_\_

If yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date \_\_\_\_\_ & Case No. \_\_\_\_\_

(PLACE AN [X] IN ONE BOX ONLY)

## NATURE OF SUIT

## TORTS

## ACTIONS UNDER STATUTES

## CONTRACT

- ☐ 110 INSURANCE  
☐ 120 MARINE  
☐ 130 MILLER ACT  
☐ 140 NEGOTIABLE INSTRUMENT  
☐ 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT  
☐ 151 MEDICARE ACT  
☐ 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL VETERANS)  
☐ 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS  
☐ 160 STOCKHOLDERS SUITS  
☐ 190 OTHER CONTRACT  
☐ 195 CONTRACT PRODUCT LIABILITY  
☐ 196 FRANCHISE

## PERSONAL INJURY

- ☐ 310 AIRPLANE  
☐ 315 AIRPLANE PRODUCT LIABILITY  
☐ 320 ASSAULT, LIBEL & SLANDER  
☐ 330 FEDERAL EMPLOYERS' LIABILITY  
☐ 340 MARINE  
☐ 345 MARINE PRODUCT LIABILITY  
☐ 350 MOTOR VEHICLE  
☐ 355 MOTOR VEHICLE PRODUCT LIABILITY  
☐ 360 OTHER PERSONAL INJURY

## PERSONAL INJURY

- ☐ 362 PERSONAL INJURY - MED MALPRACTICE  
☐ 365 PERSONAL INJURY PRODUCT LIABILITY  
☐ 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY  
  
**PERSONAL PROPERTY**  
☐ 370 OTHER FRAUD  
☐ 371 TRUTH IN LENDING  
☐ 380 OTHER PERSONAL PROPERTY DAMAGE  
☐ 385 PROPERTY DAMAGE PRODUCT LIABILITY

## FORFEITURE/PENALTY

- ☐ 610 AGRICULTURE  
☐ 620 OTHER FOOD & DRUG  
☐ 625 DRUG RELATED SEIZURE OF PROPERTY  
☐ 630 LIQUOR LAWS  
☐ 640 RR & TRUCK  
☐ 650 AIRLINE REGS  
☐ 660 OCCUPATIONAL SAFETY/HEALTH  
☐ 690 OTHER

## LABOR

- ☐ 710 FAIR LABOR STANDARDS ACT  
☐ 720 LABOR/MGMT RELATIONS  
☐ 730 LABOR/MGMT REPORTING & DISCLOSURE ACT  
☐ 740 RAILWAY LABOR ACT  
☐ 790 OTHER LABOR LITIGATION  
☐ 791 EMPL RET INC SECURITY ACT

## IMMIGRATION

- ☐ 462 NATURALIZATION APPLICATION  
☐ 463 HABEAS CORPUS- ALIEN DETAINEE  
☐ 465 OTHER IMMIGRATION ACTIONS

## BANKRUPTCY

- ☐ 422 APPEAL 28 USC 158  
☐ 423 WITHDRAWAL 28 USC 157

## PROPERTY RIGHTS

- ☐ 820 COPYRIGHTS  
☐ 830 PATENT  
☐ 840 TRADEMARK

## SOCIAL SECURITY

- ☐ 861 HIA (1395ff)  
☐ 862 BLACK LUNG (923)  
☐ 863 DIWC/DIWW (405(g))  
☐ 864 SSID TITLE XVI  
☐ 865 RSI (405(g))

## FEDERAL TAX SUITS

- ☐ 870 TAXES (U.S. Plaintiff or Defendant)  
☐ 871 IRS-THIRD PARTY 26 USC 7609

## OTHER STATUTES

- ☐ 400 STATE REAPPORTIONMENT  
☐ 410 ANTITRUST  
☐ 430 BANKS & BANKING  
☐ 450 COMMERCE  
☐ 460 DEPORTATION  
☐ 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)  
☒ 480 CONSUMER CREDIT  
☐ 490 CABLE/SATELLITE TV  
☐ 810 SELECTIVE SERVICE  
☐ 850 SECURITIES/ COMMODITIES/ EXCHANGE  
☐ 875 CUSTOMER CHALLENGE 12 USC 3410  
☐ 890 OTHER STATUTORY ACTIONS  
☐ 891 AGRICULTURAL ACTS  
☐ 892 ECONOMIC STABILIZATION ACT  
☐ 893 ENVIRONMENTAL MATTERS  
☐ 894 ENERGY ALLOCATION ACT  
☐ 895 FREEDOM OF INFORMATION ACT  
☐ 900 APPEAL OF FEE DETERMINATION UNDER EQUAL ACCESS TO JUSTICE  
☐ 950 CONSTITUTIONALITY OF STATE STATUTES

## REAL PROPERTY

- ☐ 210 LAND CONDEMNATION  
☐ 220 FORECLOSURE  
☐ 230 RENT LEASE & EJECTMENT  
☐ 240 TORTS TO LAND  
☐ 245 TORT PRODUCT LIABILITY  
☐ 290 ALL OTHER REAL PROPERTY

## ACTIONS UNDER STATUTES

## CIVIL RIGHTS

- ☐ 441 VOTING  
☐ 442 EMPLOYMENT  
☐ 443 HOUSING/ ACCOMMODATIONS  
☐ 444 WELFARE  
☐ 445 AMERICANS WITH DISABILITIES - EMPLOYMENT  
☐ 446 AMERICANS WITH DISABILITIES - OTHER  
☐ 440 OTHER CIVIL RIGHTS

## PRISONER PETITIONS

- ☐ 510 MOTIONS TO VACATE SENTENCE 28 USC 2255  
☐ 530 HABEAS CORPUS  
☐ 535 DEATH PENALTY  
☐ 540 MANDAMUS & OTHER  
☐ 550 CIVIL RIGHTS  
☐ 555 PRISON CONDITION

Check if demanded in complaint:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.? IF SO, STATE:

DEMAND \$ 25,000 OTHER \_\_\_\_\_ JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

Check YES only if demanded in complaint

JURY DEMAND: ☒ YES ☐ NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(PLACE AN X IN ONE BOX ONLY)

## ORIGIN

- ☒ 1 Original Proceeding
- ☐ 2a. Removed from State Court
- ☐ 2b. Removed from State Court AND at least one party is pro se.
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from (Specify District)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judge Judgment

(PLACE AN X IN ONE BOX ONLY)

## BASIS OF JURISDICTION

- ☐ 1 U.S. PLAINTIFF
- ☐ 2 U.S. DEFENDANT
- ☒ 3 FEDERAL QUESTION (U.S. NOT A PARTY)
- ☐ 4 DIVERSITY

IF DIVERSITY, INDICATE  
CITIZENSHIP BELOW.  
(28 USC 1322, 1441)

## CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF [ ] 1 [ ] 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF [ ] 3 [ ] 3	INCORPORATED <u>and</u> PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF [ ] 5 [ ] 5
CITIZEN OF ANOTHER STATE	[ ] 2 [ ] 2	INCORPORATED <u>or</u> PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[ ] 4 [ ] 4	FOREIGN NATION	[ ] 6 [ ] 6

## PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

George Rivera  
50 West 97th Street, Apt. 10S  
New York, NY 10025

County of New York

## DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

Chase Receivables, Inc.  
951 California Boulevard  
Napa, California 94559

State of California

## DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ MANHATTAN  
(DO NOT check either box if this a PRISONER PETITION.)

DATE 10/5/2012 RECEIPT #	SIGNATURE OF ATTORNEY OF RECORD 	ADMITTED TO PRACTICE IN THIS DISTRICT [ ] NO [x] YES (DATE ADMITTED Mo. 02 Yr. 2003 ) Attorney Bar Code # SL 6331
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Magistrate Judge is to be designated by the Clerk of the Court.

MAG. JUDGE COTT

Magistrate Judge \_\_\_\_\_ is so Designated.

J. Michael McMahon, Clerk of Court by \_\_\_\_\_ Deputy Clerk, DATED \_\_\_\_\_.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)